THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 21205 OF 2002

Between:

Kotalaparru Grama Rajaka Sangam
Rep. by its President Achanta Venkata
Ratnam, Kotalaparru, Penugonda (M)
W.G. District and others

… Petitioners

And :

The Grampanahayat, Kotalaparru
Rep. by its Secretary, Kotalaparru,
Penugonda (M), W.G.District and others

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 21205 OF 2002

ORAL ORDER :

Heard Mr. G. Krishna Murty, learned counsel for the petitioner, Mr. M. Prabhakara Rao, learned Standing Counsel for the 1st respondent, learned Government Pleader for Panchayat Raj for the respondents 2 and 3, learned Government Pleader for Revenue for the 4th respondent and Mr. Potti Venkata Ramana Rao, learned counsel for the respondents 5 to (impleaded respondents).

The petitioners are, a Washermen Society and two members of that Society. By the notice dated 17.8.2002 the 2nd respondent offered to lease out the tank in Kotalaparru village for the period 1412 to 1414 Fasli to the 1st petitioner-Society on a upset price of Rs.12,000/- per annum and called upon the 1st petitioner-Society to inform its acceptance of the lease. It is the admitted factual scenario that the 1st petitioner-Society declined to accept the offer. Thereupon by the resolution dated 20.9.2002 the 1st respondent Gram Panchayat decided in terms of its earlier resolution No. 62 dated 29.8.2002 to put the village tank for open auction for grant of leasehold rights. In the resolution dated 20.9.2002 the 1st respondent Gram Panchayat recorded that the 1st petitioner-Society declined to take the tank on lease on upset price of Rs.12,000/- p.a., complaining that the price is very high; that on 31.8.2002 some villagers represented

that no one is carrying out washing operations in the tank; that it is being used exclusively for fishing; that the 1st petitioner-Society is sub-letting the tank to private agents and collecting yearly lease of Rs.20,000 to 30,000/- which income is being enjoyed by the 1st petitioner-Society; and that in order to augment the income of the Gram Panchayat the tank should be put to public auction.

Earlier by a resolution No. 93, dated 19.4.1993 the 1st respondent Gram Panchayat had resolved to allot this tank to the 1st petitioner-Society to enable them to perform the hereditary functions of washing clothes and also for fishing operations, on the basis of upset price to be collected from the members of the 1st petitioner-Society without the process of auction. The 1st petitioner-Society claims to have continued in occupation and enjoyment of the tank since 1993 on the basis of the above resolution of the 1st respondent.

As the 1st respondent's offer to the 1st petitioner-Society to take the tank on lease for the upset price of Rs.12,000/- was declined, the 1st respondent had no option except to put the leasehold rights of the tank for grant, by public auction. The petitioners have neither pleaded, asserted nor demonstrated before this court that they have any statutory or other vested right to get the usufruct of a tank in the Gram Panchayat free or in perpetuity. The petitioners entitlement to possession and beneficient enjoyment of the tank is based on the resolution of the Gram Panchayat of the year 1993. That resolution has now been impliedly over turned by the resolution No.62, dated 20.09.2002 and in view of the circumstances recorded in the said resolution viz., refusal by the 1st petitioner-Society of an

offer to take the tank on lease for an amount of Rs.12,000/-pa, coupled with the complaints by the villagers that the 1st petitioner-Society is making commercial capital by fishing operations and no washing operations are in currency.

In the circumstances above, the decision of the 1st respondent-Gram Panchayat to hold a public auction for grant of leasehold rights of the tank in question suffers from no infirmity warranting interference by this court u/art. 226 of the Constitution. As and when an auction is notified, needless to point out, the petitioner also will be entitled to participate in the auction if eligible and desirous of such participation. No case however exists for interdiction of the auction process.

The writ petition is accordingly dismissed. Interim stay granted on 25.10.2002 stands dissolved. No order as to costs.

Dt: 18.08.2006 ----------

-

Pvsn Justice G. Raghuram